

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 304 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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BHARATBHAI U PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR SI NANAVATI for Petitioners

MR MA BUKHARI, ADDL. PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 28/02/97

ORAL JUDGEMENT

1. By way of this Criminal Misc. Application under section 482 of the Code of Criminal Procedure, the petitioner seeks direction to quash the FIR No. Cr.R. I 190/96 registered at Ankleshwar police station, Ankleshwar.

2. It appears that the nonapplicant No.2 Major S.J.Dube (Retd) filed the First Information Report at

Ankleshwar Police Station stating that he was appointed as Consultant Administration with effect from 11/4/1996 in Shri Dinesh Mills Ltd., GIDC, Ankleshwar. It was agreed that he will be paid a salary of Rs. 15,245/- per month. On 15/5/96, he was being informed by the Manager, Shree Dinesh Mill that his salary sheet shall be prepared by 20/5/96. However, on 19/5/96, a letter was received from Vadodara regarding his appointment in salary indicating Rs.9,000/-. On this, he enquired with Mr B.S.Sahera with respect to the fixation of his salary. He was called at Vadodara where it was stated to him that his salary was fixed at Rs.11,000/-. It was protested by him and asserted that his salary was fixed at Rs. 15,000/-. The matter was taken up with the Managing Director on 25/05/96, however, he was informed that he will not be paid more than Rs. 9,000/- per month. He was also told that if he does not desire to serve in that salary, then his resignation may be submitted. He thereafter demanded a sum of Rs. 30,000/- towards working for 45 days at the rate of Rs. 15,245/- per month, but the same has not been paid.

3. I have heard learned counsel for the petitioner and also the complainant Major S.J.Dube (Retd), who has appeared party-in-person.

4. Mr Dube has failed to satisfy me as to how on the facts of the case as stated in the FIR the offence u/s 406 and 420 IPC is constituted. The necessary ingredients of section 406 and 420 IPC are wanting in the present case. This is clearly a plain and simple matter of civil dispute. The investigation on such FIR is nothing, but the abuse of process of law.

5. In view of the aforesaid, this Criminal Misc. Application is allowed. The FIR No. Cr.R. I - 190/96 registered at Ankleshwar Police Station, Ankleshwar dated 06/11/1996 is hereby quashed and set aside. Rule made absolute accordingly.

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